

DOCKET FILE COPY ORIGINAL
ORIGINAL
FLETCHER, HEALD & HILDRETH, P.L.C.

ANN BAVENDER*
SIMA N. CHOWDHURY*
HARRY F. COLE
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
JOSEPH M. DI SCIPIO*
PAUL J. FELDMAN
JEFFREY J. GEE*
FRANK R. JAZZO
M. SCOTT JOHNSON*
MITCHELL LAZARUS
STEPHEN T. LOVELADY*
SUSAN A. MARSHALL
HARRY C. MARTIN
ALISON J. MILLER
FRANCISCO R. MONTERO
LEE G. PETRO*
RAYMOND J. QUIANZON
MICHAEL W. RICHARDS*
JAMES P. RILEY
KATHLEEN VICTORY
HOWARD M. WEISS

*NOT ADMITTED IN VIRGINIA

ATTORNEYS AT LAW
11th FLOOR, 1300 NORTH 17th STREET
ARLINGTON, VIRGINIA 22209

OFFICE: (703) 812-0400

FAX: (703) 812-0486

www.fhhlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUTSAS
CONSULTANT FOR INTERNATIONAL AND
INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)
OF COUNSEL
DONALD J. EVANS
EDWARD S. O'NEILL*
ROBERT M. GURSS*
EUGENE M. LAWSON, JR.
WRITER'S DIRECT

DOCKET FILE COPY ORIGINAL

petro@fhhlaw.com
703-812-0453

RECEIVED

April 21, 2006

APR 21 2006

By Hand Delivery

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
445 12th Street, S.W. – TW-B204
Washington, DC 20554

Federal Communications Commission
Office of Secretary

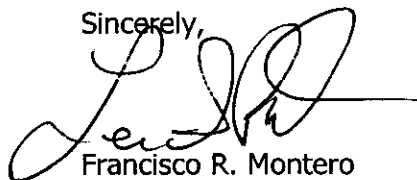
RE: Request for WHNT-DT For Preservation of Maximized Service Area
MB Docket 03-15
WDBB-TV, Inc.

Dear Ms. Dortch:

Transmitted herewith is an original and four copies of a "Request for Immediate Cessation of Ex Parte Contacts" filed on behalf of WDBB-TV, Inc., in response to the above-reference submission filed by New York Times Management Services.

Should there be any questions regarding this matter, please contact undersigned counsel.

Sincerely,



Francisco R. Montero
Lee G. Petro

Counsel for WDBB-TV, Inc.

Enclosures

cc: As shown in Certificate of Service

No. of Copies rec'd 044
List A B C D E

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

RECEIVED

In the Matter of

APR 21 2006

Second Periodic Review of the Commission's
Rules and Policies Affecting the Conversion to
Digital Television

)
)
) MB Docket No. 03-161 Federal Communications Commission,
) Office of Secretary
)

To: The Secretary
The Commission

**REQUEST FOR IMMEDIATE CESSATION
OF EX PARTE CONTACTS**

WDBB-TV, Inc., the licensee of Station WDBB(TV) and permittee of Station WDBB-DT, Bessemer, Alabama ("WDBB"), by its attorneys, hereby respectfully submits this Request for the Immediate Cessation of Ex Parte Contacts relating to the "Request of WHNT-DT for Preservation of Maximized Service Area" ("Request"), filed on April 3, 2006, in the above-referenced proceeding.

The Request filed by New York Times Management Services, the licensee of WHNT-DT (hereinafter "WHNT"), asks that the Commission "preserve" WHNT's ability to operate post-transition on DTV Channel 19 with maximized facilities, despite demonstrated interference to other stations in excess of the Commission's established limit. *See* Request, at 1. The Request also requests that the maximized facilities for WHNT be included in the DTV Table of Allotments. *See* Request at ii, 14. On April 18, 2006, WDBB filed an Opposition to the Request, noting that the Request was merely another attempt to make a channel election which had previously been denied by the Commission on two separate occasions. WDBB had filed against WHNT's channel elections, and continues to oppose WHNT's maximization plans.

As noted in the Opposition, WDBB's past opposition to WHNT's channel elections plans should have placed WHNT on notice that ex parte contacts would be prohibited under the

Commission's rules. *See* 47 C.F.R. §1.1208 (2005). This is especially true in those situations where there is a proposal to amend one of the "broadcast table of allotments", as WHNT intends to do in the instant matter.

However, as first disclosed in the Request, at page 6, and as recently as April 14, 2006,¹ WHNT has discussed the merits of its opposed channel election proposal with the Commission's staff. Such contacts were made even though the proposed changes specified in the Request would directly affect two other broadcasters. WHNT failed to provide advance notice of such contacts, and certainly was not invited to attend the meetings.

Out of an abundance of caution, therefore, WDBB requests that all ex parte contacts between WHNT and the Commission's staff cease immediately. The Commission's rules are clear. In contested proceedings, parties may not lobby the FCC's staff.² In light of WDBB's continued role in protecting its authorized service area, it is imperative that WHNT cease all ex parte contacts, and comply with the Commission's rules.

Respectfully submitted,

WDBB-TV, INC.

By: 

Francisco R. Montero
Lee G. Petro
Its Attorneys

Dated: April 21, 2006

¹ Although the cover letter of the Ex Parte notice was dated April 17, 2005, the internal reference to the impermissible meeting with the Commission's staff indicates that the meeting actually took place on April 14, 2006.

² *Press Broadcasting Co. v. FCC*, 59 F.3d 1365 (D.C. Cir. 1995). *See also Amendment of 47 C.F.R. Sec. 1.1200 et seq. Concerning Ex Parte Presentations in Commission Proceedings*, 12 FCC Rcd 7348, ¶ 2 (1997) ("We stress that the ex parte rules are important and that full compliance is expected.).

CERTIFICATE OF SERVICE

I, Barbara L. Lyle, hereby certify that a true and correct copy of the foregoing "Request"
was mailed by first-class, U.S. mail or hand-delivery (*) on April 21, 2006 to the following:

Jennifer A. Johnson
Matthew S. DelNero
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

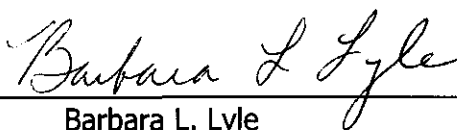
Kevin Walsh
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W.
Suite 200
Washington, D.C. 20036-3101

Clay Pendarvis *
Associate Division Chief, Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Nazifa Sawez *
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Joyce Bernstein *
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Eloise Gore*
Media Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

A handwritten signature in cursive script, reading "Barbara L. Lyle", is written over a horizontal line.

Barbara L. Lyle

Marlene H. Dortch, Esquire

April 21, 2006

Page 2

bcc: Kathryn R. Schmeltzer, Esquire
Francisco R. Montero, Esquire
Anne C. Crump

Client #: 07808-01

File: WDBB-TV, Inc. - #4 Pleadings

Document2